

## **MINUTES**

### **MONTANA SENATE 58th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON AGRICULTURE, LIVESTOCK AND IRRIGATION**

**Call to Order:** By **CHAIRMAN KEITH BALES**, on February 7, 2003 at 3 P.M., in Room 422 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Keith Bales, Chairman (R)  
Sen. Dale Mahlum, Vice Chairman (R)  
Sen. Ken (Kim) Hansen (D)  
Sen. Sam Kitzenberg (R)  
Sen. Walter McNutt (R)  
Sen. Linda Nelson (D)  
Sen. Gerald Pease (D)  
Sen. Corey Stapleton (R)  
Sen. Mike Taylor (R)  
Sen. Joseph (Joe) Tropila (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Jennifer Stephens, Committee Secretary  
Doug Sternberg, Legislative Branch

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted: HB 47, 2/3/2003; HB 311, 2/3/2003  
Executive Action: HB 47

**HEARING ON HB 47**

**Sponsor:** REP. PAUL CLARK, HD 72, TROUT CREEK

**Proponents:** None

**Opponents:** None

**Opening Statement by Sponsor:**

REP. PAUL CLARK, HD 72, TROUT CREEK, explained that HB 47 is a simple restructuring of herd district law. Specifically, He added that the bill is mostly a "west side" bill, meaning the west side of Montana, because the bill concerns areas that are becoming more suburban. He explained it is a private property rights issue to establish a herd district so rather than keeping the land owners at 55% of the land, the bill would require more of the land ownership in the herd district, precisely 75%. However, in exchange, the qualification that required the land to be under cultivation or residential will be eliminated.

**Informational Testimony:**

John Bloomquist, Montana Stock Growers Association, explained that HB 47 would create another means of making a herd district. He also asserted that creating a measure that is land based is a good idea. He further explained that herd district law has changed a lot in recent years in order to make it more modern.

**Questions from Committee Members and Responses:**

SEN. MIKE TAYLOR asked REP. CLARK who the bill is for. REP. CLARK explained he wrote the bill because of concerns in his own district. He said that even though most of his district is timber country, there is some ranch land. There is very little open range because there is a lot of private land that has been subdivided into 10, 15, 20, or 40 acre lots. The district has several individuals who let their animals roam on country roads. He explained that many people in his district tried to establish a heard district a number of years ago. They got a sufficient number of signatures but experienced some complications because wooded areas are not considered residential or cultivated areas. He explained that HB 47 would eliminated this problem.

**Closing by Sponsor:**

REP. CLARK closed by saying HB 47 is just another means of creating a herd district.

**Sponsor:** REP. RON STOKER, HD 59, HAMILTON

**Proponents:** Tim Huls, Montana Dairy Association  
Todd Gahagun, Montana Department of Livestock  
Nancy Schlepp, Montana Farm Bureau

**Opponents:** None

**Opening Statement by Sponsor:**

REP. RON STOKER, HD 59, HAMILTON, explained that HB 47 would do two things. First, eggnog would become a class one product. Second, the inspection fees for all three classes as milk would be the same. He explained the fees were used for the payment of bills, the two state milk labs, and the personnel that the industry has hired.

**Proponents' Testimony:**

Tim Huls, Montana Dairy Association, said HB 47 is important to insure that the Department of Livestock inspection program and diagnostics lab is both adequately and equitably funded. Mr. Huls said that is not the case right now because the fee structure is based solely on class one milk. This is a problem because there are people who do not sell their milk through the Montana class one market but do require services from the Montana Department of Livestock. Even though they receive this service, they are not required to pay any fees. This puts a burden on the class one marketers because they are the only ones who pay the Department of Livestock. HB 47 would spread the cost to all classes of milk. Lastly, he said the change of egg nog to a class one product would be concurrent with how most other states classify their milk.

Todd Gahagun, Montana Department of Livestock, said he fully supported the bill. Also, the eggnog reclassification would give Montana dairy producers a few dollars more in their paycheck during the holiday season.

John Bloomquist spoke on behalf of Nancy Schlepp, Montana Farm Bureau, who was not present to give her testimony. Ms. Schlepp wanted to go on record as supporting the bill.

**Questions from Committee Members and Responses:**

SEN. KEITH BALES asked Tim Huls asked if there is a difference in the price that is received from each class of milk. Mr. Huls

said class one milk definitely gets the highest price. **SEN. BALES** further asked **Mr. Huls** if he could tell him the current price for class one milk. **Mr. Huls** had the questioned deferred to **Monte Nick, Montana Milk Control Bureau**. He reported that the January price for class one milk was \$13.07 on a hundred weight; class two was \$11.24; and class three, \$9.51.

**SEN. WALTER MCNUTT** asked **Mr. Nick** if the new pricing would effect class three more than class one. **Mr. Nick** asked **Mr. Huls** to answer the question. **Mr. Huls** explained that since Montana has a pool program where all of the milk is pooled together, producers are paid based on the utilization of all three classes of milk. That means that HB 47 would assess the milk based on total production. He also noted that some producers market their milk out of state and don't participate in the Montana marketing program. Their milk can be any classification. With HB 47, those individuals would have to disclose their production to the Department of Livestock and be charged the same price as the producers in Montana. This is because even though the producers sell out-of-state, they are still being inspected by the Montana Department of Livestock. **SEN. MCNUTT** emphasized again that if a person is selling any of the three classes of milk based on volume and the prices are as **Mr. Nick** explained, a class three producer is being impacted worse than a class one producer. **Mr. Huls** said that would be true if the producer only sold class three milk, but again the milk is pooled so everyone gets approximately the same price.

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**SEN. MCNUTT** asked the current milk rate. **Mr. Nick** said the current rate is 14.9 cents per hundred weight for class one milk. The new rate, he guesses, would probably be between 11 and 12 cents.

**SEN. MIKE TAYLOR** asked how much of the funding comes from new producers. **Mr. Nick** said it is difficult to come up with the numbers because the dairies that don't produce class one milk don't contribute any money. He also explained that there are a growing number of goat milk dairies in the state but they don't produce class one milk. It's all grade A, but it's not class one because it is used to make cheese.

**SEN. TAYLOR** wanted to know if HB 47 would affect investing in the dairy industry. **Mr. Huls** said he doesn't see that happening because dairy have to be inspected in order to keep your licence to produce milk. It has to be factored in if anyone wants to open up a dairy in the state. He said he believes the quota

system is more of an impediment to getting started in the dairy industry than the fee to cover the inspection.

**SEN. BALES** asked if the Montana Dairy Association needed the additional \$358,000 in order to conduct the inspections. **Mr. Huls** said that he considered HB 47 to be revenue neutral; they don't expect to see an increase in the amount of money coming in. The association just wants to see their expenses covered. He also explained that an expensive piece of equipment is needed at one of the state's diagnostic laboratories in order to do milk testing. The last time the piece of equipment was purchased was 17 years ago and it needs to be replaced. **SEN BALES** wanted to know if the fiscal note was correct then because it says the department would be collecting an additional \$700,000 annually. **Mr. Huls** said the fiscal note must be wrong because the department should only be collecting a \$350,000 deposit.

**SEN. TAYLOR** asked **REP. STOKER** if he could see a corrected fiscal note before executive action is taken. **REP. STOKER** said he would have a corrected fiscal note made up.

**Closing by Sponsor:**

**REP. RON STOKER** urged due concur on HB 47.

**EXECUTIVE ACTION ON HB 47**

**Motion/Vote:** **SEN. TAYLOR** moved that HB 47 DO PASS. Motion carried unanimously.

**ADJOURNMENT**

Adjournment: 4:30 P.M.

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SEN. KEITH BALES, Chairman

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JENNIFER STEPHENS, Secretary

KB/JS

**EXHIBIT** (ags27aad)